S.B. Criminal Revision Petition NO.306/2007
(Hanuman Choudhary Vs. State & Ors.)

Date of order : 23.5.2007

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. J.R. Beniwal, for the petitioner.
Mr. Ashok Upadhyay, Public Prosecutor.
Mr. M.K. Garg, for the non-petitioner No.2.

Heard learned counsel for the parties.

By way of filing the present revision petition, the petitioner has challenged the order dated 18.8.2001 passed by trial court whereby the petitioner was convicted for offence under Section 138 N.I. Act and sentenced to three months simple imprisonment with fine of Rs.5,000/-, in default of payment of fine to further undergo fifteen days simple imprisonment as well as the order dated 5.4.2007 passed by Additional Sessions Judge (Fast Track) No.3, Jodhpur whereby the Appellate Court has upheld the order dated 18.8.2001 passed by trial court.

It is submitted by learned counsel for the parties that both the parties have filed compromise before this Court.

Learned counsel for the petitioner has invited the attention of this Court towards the judgment rendered by Hon'ble Supreme Court in case of

Anil Kumar Haritwal & Anr. Vs. Alka Gupta & Anr., reported in AIR 2004 SC 3978 whereby the Hon'ble Supreme Court has set aside the conviction and sentence because dispute was settled between the parties as Section 147 of N.I. Act, permits compounding of offence. The relevant portion of the aforesaid judgment reads as under :-

> "5. In this appeal the parties before us have filed a compromise petition bringing to our notice that dispute between them has since been settled and the amount due to the respondent-complainant has been paid, therefore, a prayer is made in the interest of justice, that conviction and sentence imposed on the appellants may kindly be quashed. Learned counsel for the appellants placed reliance on the judgment of this Court in the case of Texmaco v. State of A.P., 2000 (1) SCC 762, where this Court on similar facts and circumstances of the case, had allowed such prayer and set aside the conviction and sentence.
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> 6. We have perused the record of the said case, which in our opinion are similar to the facts of the present case and we think it proper that prayer of the parties seeking to settle the dispute and praying for setting aside the conviction and sentence should be allowed. In the said view of the matter following the judgment of this Court in the above case, we allow this appeal setting aside the conviction and sentence imposed on the appellants in the interest of justice in view of the fact that the dispute is settled between the parties and Section 147 of the Negotiable Instruments Act permits compounding of the Offence."

In this view of the matter, the parties were directed to remain present before the Registrar (Admn.) of this Court and got verified the compromise.

The file of this case was sent to the Registrar (Admn.) for verification of the compromise.

I have perused the compromise which is verified by the Registrar (Admn) of this Court.

In this view of the matter while following the aforesaid judgment rendered by Hon'ble Supreme Court in case of Anil Kumar Haritwal (supra) and to secure the ends of justice, the conviction and sentence awarded to the petitioner is set aside as the dispute in between the parties stands settled by way of compromise arrived at in between them.

The petition is disposed of.

(GOPAL KRISHAN VYAS), J .

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